National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/55100	Date: January 02, 2023
Circular Ref. No: 01/2023	

To All NSE Members

Sub: **In the matter of the unauthorized use of the name Equity 99 a SEBI registered intermediary**

SEBI vide its order no. WTM/ASB/WRO/WRO/22670/2022–23 dated January 02, 2023, has hereby directed that the below mentioned entities are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing insecurities, directly or indirectly in any manner whatsoever, for a period of three (3) years from the date of this Order or till the expiry of three (3) years from the date of completion of refunds to clients/investors as directed in paragraphs 6.1(i) and 6.1.(v) of the order, whichever is later.

Sr. No.	Name of Entity	PAN
1	Yogendra Singh	DTQPS1891P
2	Anshul Rathore	BMWPR0841K

This Order shall come into force with immediate effect.

The detailed order is available on SEBI website (http://www.sebi.gov.in).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page under “Home-Regulation-Members-Action against Members-Regulatory Actions”.

Members are advised to take note of the above and ensure compliance.

In case of any further queries, members are requested to contact the following officials:

Mr. Joshua Mendes (Extension: 24549), Mr. Anand Jangir (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of
National Stock Exchange of India Limited

Anand Jangir
Manager

Annexure: - In the matter of the unauthorized use of the name Equity 99 a SEBI registered intermediary

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11 (4) and 11B (1) of the Securities and Exchange Board of India Act, 1992.

In respect of –

Sr. No.	Noticee	PAN
1.	Yogendra Singh	DTQPS1891P
2.	Anshul Rathore	BMWPR0841K

(The aforesaid entities are hereinafter referred to by their respective names / Noticee numbers and collectively as the "Noticees")

In the matter of the unauthorised use of the name of Equity 99, a SEBI registered intermediary.

1. **Background –**

1.1. The present matter emanates from a complaint filed by Equity 99, a partnership firm registered with SEBI as an investment adviser bearing registration number: INA000005358. By way of the said complaint, it was informed by Equity 99 that certain entities were offering investment advisory services and charging commission by making unauthorised use of its name. Along with the said complaint, a copy of a police complaint filed by Equity 99 with the Cuffe Parade Police Station, Mumbai, was attached.

1.2. Pursuant to the receipt of the said complaint, the matter was examined to verify the veracity of the information brought out in it and ascertain whether there had been any violation of the provisions of the Securities and Exchange Board of India Act, 1992 (the "**SEBI Act**"), the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (the "**IA Regulations**") and any other

Regulations or provisions of law. Consequent to the completion of examination in the matter, a Show-cause Notice bearing No. SEBI/WRO/11543/1 dated June 4, 2021 ("**SCN**") was issued to the entities, listed above, based on the findings of the said examination. It is in this background that the present proceeding, which is to consider the allegations made in the SCN, is before me.

2. The Show-cause Notice

2.1. As stated above, the SCN has been issued to the Noticees based on the findings of the examination. In this regard, the SCN has *inter alia* brought out the following facts with respect to the conduct of the Noticees:

a. The complaint filed by Equity 99, contained the details of the bank account in which funds had been received from investors. The bank account was being maintained with IndusInd Bank, Indore branch with account number: 201002430783.

b. From the information received from IndusInd Bank, it was seen that the bank account had been opened in the name of *'Equity 99'* and the same was being operated by Yogendra Singh.

c. In the KYC documents provided by IndusInd Bank, the email address provided was info.vishwaam@gmail.com and the occupation of Yogendra Singh was mentioned as *'Financial Consultant'*.

d. Also, the statement of the IndusInd Bank account was sought. It was seen from the bank statement that a total of INR 5,72,181 had been credited to the account during the period, May 10, 2018 to October 21, 2020.

e. Along with the complaint filed with the police, Equity 99 (partnership firm) had also annexed the letter of one Rajesh Vanaparthi. In his letter, he had informed that he had received communication regarding investment advisory services from the email ID, info.vishwaam@gmail.com, and had also been advised through WhatsApp. Pursuant to the same, he had transferred INR 1 lakh to a bank account which belonged to Anshul Rathore.

f. It was found that Anshul Rathore had two bank accounts, which were maintained with State Bank of India (A/c No. 34771133543) and Axis Bank (A/c No. 913010020194613).

g. Accordingly, the statements in respect of both the bank accounts were sought. It was seen that Rajesh Vanaparthi had paid INR 1,23,000 into the bank account of Anshul Rathore maintained with State Bank of India (A/c No. 34771133543) during the period June 05, 2019 to August 05, 2019.

h. It was also found that the bank account of Anshul Rathore maintained with Axis Bank (A/c No. 913010020194613) was a salary account, which had been opened on April 16, 2013, when the said Noticee was employed with Research Via, a registered investment adviser. From the date of opening of account in 2013 till October 26, 2020, a total of INR 64,12,371had been received in the said account.

2.2. Based on the above, the SCN has alleged that the Noticees namely, Yogendra Singh and Anshul Rathore were connected to each other and were providing investment advisory services without being registered as investment advisers.

2.3. In this respect, the SCN has also alleged that the Noticees have violated Section 12 (1) of the SEBI Act read with Regulation 3(1) of the IA Regulations.

2.4. Accordingly, the SCN has called upon the Noticees to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B(1) should not be issued against them.

3. Service of SCN, Personal Hearing, and Replies and Written Submissions from the Noticees –

3.1. Consequent to the issuance of the SCN, the same was sent to the Noticees on the addresses available on record. Noticee No.1 has neither filed any reply in response to the SCN nor availed the opportunity of personal hearing. The details with respect to the service of the SCN and Hearing Notices to Noticee No.1 are provided hereunder:

Table- 1

Noticee No.	**Name of the Noticee**	**Details**
1	Yogendra Singh	▪ The SCN dated June 04, 2021 was sent by Speed Post to the Noticee at the address: 203, 2nd Floor, Industry House, Old Palasia, Nearby Onam Plaza, Indore, MP- 452001. The same could not be delivered and was returned to SEBI. ▪ A copy of the SCN dated June 04, 2021 was sent by email on October 29, 2021 to the Noticee at the email address: info.vishwaam@gmail.com. ▪ Hearing Notice dated April 22, 2022 informing of the hearing scheduled for June 21, 2022 was sent by Speed Post to the Noticee at the address: 203, 2nd Floor, Industry House, Old Palasia, Nearby Onam Plaza, Indore, MP-

		452001. The same could not be delivered and was returned to SEBI. ▪ Hearing Notice dated April 22, 2022 informing of the hearing scheduled for June 21, 2022 was sent by email on April 22, 2022 and June 01, 2022 to the Noticee at the email address: info.vishwaam@gmail.com. ▪ Public Notices were brought out in the June 01, 2022 publications of the Times of India (English daily) - Indore Edition and Nai Dunia (Hindi) Daily-Indore Edition informing of the issuance of SCN against the said Noticee in the matter and the hearing scheduled for June 21, 2022. ▪ Hearing link of the hearing scheduled for June 21, 2022 was sent by email on June 20, 2022 to the Noticee at the email address: info.vishwaam@gmail.com. ▪ Hearing Notice dated September 16, 2022 informing of the hearing scheduled for October 17, 2022 was sent by Speed Post to the Noticee at the address: 203, 2nd Floor, Industry House, Old Palasia, Nearby Onam Plaza, Indore, MP- 452001. The same could not be delivered and was returned to SEBI.

		▪ Public Notices were brought out in the October 07, 2022 publications of the Times of India (English daily) - Indore Edition and Nai Dunia (Hindi daily) - Indore Edition informing of the hearing scheduled for October 17, 2022. ▪ Hearing link of the hearing scheduled for October 17, 2022 was sent by email on October 17, 2022 to the Noticee at the email address: info.vishwaam@gmail.com.

3.2. With respect to Noticee No. 2, Anshul Rathore, it is seen from the record that a reply dated July 10, 2021 has been received in response to the allegations made in the SCN. Noticee No. 2 also appeared for the hearing held on June 21, 2022 and made submissions through his Authorised Representative. Subsequently, in response to the queries raised during the said hearing, clarifications/additional documents were provided by the said Noticee through email dated July 05, 2022. Accordingly, the submissions made by Noticee No. 2 are summarised hereunder:

a. He was not involved in the running of unregistered investment advisory activities in the name of Equity 99 and was merely an employee. He was appointed as an HR manager and his role was confined to hiring staff members.

b. The SCN had wrongly claimed that the email ID in the KYC form with respect to the Noticee's bank account maintained with Axis Bank (A/c No. 913010020194613) was info.vishwaam@gmail.com. The email ID provided by him in the KYC form with respect to the Noticee's bank account maintained with Axis Bank (A/c No. 913010020194613) was in fact ansul.27oct@gmail.com. A letter to this effect had also been issued by Axis Bank.

c. The amount of INR 64,12,371 credited into the bank account maintained with Axis Bank (A/c No. 913010020194613) did not have any connection with unregistered investment advisory activities, and was his hard earned money from salary and included loans from various banks and NBFCs.

d. The amount of INR 10,03,612 credited into the bank account maintained with State Bank of India (A/c No. 34771133543) had no connection with unregistered investment advisory activities and was received over a period of five years.

e. He did not have any connection with Rajesh Vanaparthi and the same could be ascertained from the WhatsApp chats submitted by Rajesh Vanaparthi.

f. He had never asked Rajesh Vanaparthi to deposit the amounts in his bank account maintained with State Bank of India (A/c No. 34771133543). He did not receive direct payment from Rajesh Vanaparthi. He was working with Yogendra Singh as an employee and he did not receive his salary for the months of June and August, 2019. When he requested Yogendra Singh for his pending salary, Yogendra Singh informed him that some payment was due from another person and once such payment was made, the same would be adjusted with his salary. This is how he came to receive the amounts in his bank account maintained with State Bank of India (A/c No. 34771133543) from Rajesh Vanaparthi.

g. He had filed a complaint with the District and Sessions Court, Indore on June 28, 2021 informing of the purported crimes committed by Yogendra Singh and three others under various sections of the Indian Penal Code. In the said complaint, Noticee No.2 has *inter alia* brought out the following facts:

i. after graduating from college with an MBA, he joined Angel Broking, where he worked for a month, and thereafter, he joined Research Via, a registered Investment Adviser in the year 2013;

ii. it was at Research Via that he met Yogendra Singh and Dileep Sihole in the year 2014;

iii. in the year 2016 he came to know that Yogendra Singh and Dileep Sihole had started a new company;

iv. even though he was asked by friends to work for Yogendra's new company, he continued to work for Research Via till 2107;

v. subsequently Yogendra Singh and Dileep Sihole joined by Mahendra and Piyush, and they invited him to work for them, which he accepted;

vi. he was promised a salary of INR 40,000 per month, though he never got the salary in full and it was always late;

vii. in the year 2019, consequent to news published in newspapers, he asked Yogendra Singh, Dileep Sihole, Mahendra Singh Seekarwar and Piyush Neema about the legality of the business, and was informed that everything was above board and they were registered with SEBI; and

viii. he had received only INR 4,00,000 of the total due amount of INR 8,00,000, and when he asked for the balance amount he was verbally abused.

3.4. **Relevant Provisions**

a. **Provisions of the SEBI Act —**

Section 12 (1)

Registration of stock brokers, sub-brokers, share transfer agents, etc.
"No stock broker, sub -broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act"

b. **Provisions of the IA Regulations, 2013 —**

Regulation 3(1)

"On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations".

4. Issue –

4.1. In view of the submissions made, the issues for consideration are: –

I. Whether –

a. a proprietorship firm in the name and style of 'Equity 99' had been created, and if so, who was its proprietor (s);

b. if the answer to I.(a) is in the affirmative then whether services in the nature of investment advice were being offered by the proprietor(s);

c. if the answer to I.(b) is in the affirmative then whether the proprietor(s) have violated Section 12 (1) of the SEBI Act and Regulation 3(1) of the SEBI (IA) Regulations?

II. Whether Anshul Rathore is connected to Yogendra Singh, and if so, what is the nature of his connection?

III. If answer to Issue I. is in the affirmative, then what is the total amount mobilised by way of unregistered investment advisory activities?

5. Consideration and findings –

5.1. I note from Table-1 above that the SCN was issued to Noticee no. 1, Yogendra Singh by Speed Post at the address appearing in SEBI's records. The SCN came back to SEBI as *'undelivered'*. It is noted that the address to which the SCN was sent is the same address which was provided by Yogendra Singh in his Account Opening Form ('**AOF**') submitted during the opening of the bank account maintained with IndusInd Bank (A/c No. 201002430783). Since the SCN could not be delivered to Yogendra Singh by way of Speed Post, a copy of the SCN was also sent by way of email to him at the email ID:info.vishwaam@gmail.com. It is noted that the said email ID is the same email ID which was provided by Yogendra Singh in his AOF submitted during the opening of the bank account maintained with IndusInd Bank (A/c No. 201002430783). Also, public notices in multiple newspapers were brought out to inform the issuance of the SCN against Noticee No.1 and the opportunities of personal hearing granted to him. So, attempts were made through multiple modes of service viz., Speed Post, email and publication of public notice in newspapers to serve the SCN/Hearing Notice on Yogendra Singh. It is noted that Noticee No.1 has neither filed any reply in response to the allegations made in the SCN nor availed the opportunities of personal hearing granted to him on June 21, 2022 and October 17, 2022. Considering the above, I find that adequate opportunities have been provided to the Noticee to present his case.

5.2. In this context, I rely upon the observations of the Hon'ble SAT in ***Sanjay Kumar Tayal & Ors. vs. SEBI (Order dated February 11, 2014 in Appeal no. 68 of 2013)***, wherein it was observed: *"… Appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices."* Accordingly, I find that the Noticee No.1 is not interested in participating in the present proceeding before me. Even though they have remained *ex parte*, I nonetheless find it relevant that I should be guided by the documents available on record as laid down by the Hon'ble SAT in ***Shri B. Ramalinga Raju vs. SEBI (Order dated May 12, 2017 in Appeal No. 286 of 2014)***. Accordingly, I shall proceed in respect of Noticee No.1 on the basis of the material on record.

I (a) - Whether a proprietorship firm in the name and style of 'Equity 99' had been created, and if so, who was its proprietor (s)?

5.3. It has already been brought out that Equity 99, a partnership firm registered with SEBI, had filed a complaint with the Cuffe Parade Police Station, Mumbai *inter alia* stating that certain entities were fraudulently using its name to provide investment advice. It also provided details of a bank account bearing number – 201002430783 maintained with IndusInd Bank, Indore branch which was being used for this purpose. The said information was also shared with SEBI.

5.4. Pursuant to the same, necessary information was sought from IndusInd Bank. From the reply dated March 19, 2020 received from IndusInd Bank and the details contained therein in respect of the said bank account, I note that the bank account was in the name of a proprietorship firm, Equity 99. I also note from the AOF that Yogendra Singh had signed the AOF as the *'proprietor'* of Equity 99. The documents used for opening the said account were the PAN Card and Aadhar Card of Yogendra Singh. Further, I note that an Establishment Certificate issued by the District Labour Office, Indore under the MP Shops and Establishments Act, 1958 had been submitted along with other documents for opening of the above-mentioned account. The said certificate shows *'Equity 99'* as the establishment and Yogendra Singh as its proprietor. I also note from the said Establishment Certificate that the period of registration granted to Equity 99 (proprietorship firm) under the said certificate was from May 11, 2018 to December 31, 2022.

5.5. Thus, from the preceding paragraphs, it is evident that a proprietorship firm in the name of *'Equity 99'* had been in effect from May 11, 2018 and the same had been formed by Yogendra Singh (Noticee No.1) who was its proprietor.

I (b) - Whether services in the nature of investment advice were being offered by Yogendra Singh?

5.6. It has already been brought out that Rajesh Vanaparthi had filed a complaint with respect to the services offered by Yogendra Singh. In the said complaint, Rajesh Vanaparthi has provided email communication received by him, from Yogendra Singh's proprietorship firm, Equity 99 in respect of the *'Premium Cash and Index Service'* being offered by it. It is noteworthy that the said email communication providing the details of the *'Premium Cash and Index Service'* was sent from the email ID: info.vishwaam@gmail.com. It is the same email ID which was provided by Yogendra Singh in the AOF of the bank account opened with IndusInd Bank (A/c No. 201002430783). So, it is clear that the communication with Rajesh Vanaparthi emerged from Yogendra Singh.

5.7. From the email communication referred to above, I note that the 'Premium Cash and Index Service' promised the following bouquet of services:

"• Weekly 2 – 3 Calls depends on hurdle.

- *Intraday 1-2 levels daily.*
- *Daily nifty Resistance / support news charts.*
- *Risk minimization by the accumulation phase.*
- *Fundamental momentum based stocks.*
- *Calls in CASH HNI, HNI INDEX OPTIONS Stocks.*
- *SMS & Telephonic service tips & support.*
- *85-90% monthly accuracy in stock tips.*
- *Direct support of Sr. Equity Analyst.*
- *Daily update profit & loss account.*
- *Maintaining Risk and Revert Ratio (0.6:2).”*

5.8. Additionally, Rajesh Vanaparthi has provided WhatsApp chats with one Shubham Kamdar, presumably working with Yogendra Singh, with respect to the investment advisory services received by him. Some of the conversations are extracted hereunder for reference:

July 08, 2019

“Rajesh Vanaparthi: Madam kya hua aaj bhi nahi?

Shubham Kamdar: Bank nifty 950 minus

….

Shubham Kamdar: Aj toh bank nifty 950 point down thi

Shubham Kamdar: Avi market bhut risky hair sor

Rajesh Vanaparthi: ok “

July 13, 2019

“Rajesh Vanaparthi: BEML liya tho loss ho sakta tha aaj?

Shubham Kamdar: Ha isiliye ni liya

….

Shubham Kamdar: HA sir dwn a gya tha

Shubham Kamdar: bhut jyada

Shubham Kamdar: 218

Shubham Kamdar: A gya tha

Shubham Kamdar: Avi krti aur trade

Shubham Kamdar: 255 se kiya tha”

5.9. So, from the above it is gathered that Yogendra Singh through his proprietorship firm was offering tips relating to the share market to investors so that the investors could trade in the share markets and earn profits. Also, from the email communication providing details of the *‘Premium Cash and Index Service’*, it is seen that the tips were in respect of shares and options. Further, it is also seen that the tips relating to the above-mentioned asset classes were curated into various packages/services viz., Cash HNI Tips and HNI INDEX OPTIONS etc.

5.10. In this regard, reference is made to Regulation 2 (1) (l) of the IA Regulations, which defines investment advice. The said provision defines investment advice as “*advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning:*

Provided that investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations".

5.11. It is gathered from the preceding paragraphs that Yogendra Singh was offering tips and recommendations in respect of shares and options, which are securities as per the definition provided in Section 2(h) of the Securities Contract Regulation Act, 1956. It is also noted that Yogendra Singh was offering tips and recommendations in respect of shares and options to the investors/clients so that they could make profits. So, I find that a) Yogendra Singh was offering tips and recommendations relating to securities; and b) the tips and recommendations were for the clients/investors to invest, purchase, sell or deal in securities. Thus, it is established that the services offered by Yogendra Singh were in the nature of investment advice.

5.12. Further, I draw reference to Regulation 2 (1)(m) of the IA Regulations, which defines an investment adviser. The said provision defines investment adviser as,

"any *person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called*".

5.13. It has already been brought out that Yogendra Singh was offering services which were in the nature of investment advice. Additionally, the email communication providing details of the 'Premium Cash and Index Service' states, "*As per the company policy you're RPF (RISK PROFILING) created according to your investment proposal plan their <u>you need to pay INR 5500 Subscription charges then remaining amount of INR 19500 within Of Total service cost in Monthly plan</u>. We here to convert your Financial plan into conservative trading pattern for 30 working days.*" (emphasis supplied)

5.14. Further, the said email communication provides the bank account details through which payment could be made. The same are reproduced hereunder:

INDUSIND BANK DETAILS -
ACC HOLDER_EQUITY 99
A/C NO. _201002430783
IFSC CODE_INDB0000011 BRNACH_INDORE

5.15. So, it is clearly established that the services/packages offered by Yogendra Singh were available for consideration. Accordingly, in line with the definition of an investment adviser brought out above, I find that Yogendra Singh was acting as an investment adviser.

I- c) Whether Yogendra Singh through his proprietorship firm, Equity 99 was acting as an investment adviser in violation of the provisions of the SEBI Act and the IA Regulations?

5.16. It has already been established that Yogendra Singh through his proprietorship firm Equity 99 was carrying out investment advisory activities. I note from the record that Yogendra Singh / Equity 99 (proprietorship firm) were at no time registered as an investment adviser with SEBI. Also, as has already been brought out in the preceding paragraphs, Equity 99 (partnership firm), which is registered with SEBI has filed a complaint against the activities of Yogendra Singh. That being the case, I find that Yogendra through his proprietorship firm was carrying out investment advisory activities without being registered as an investment adviser with SEBI.

5.17. In this regard, reference is made to Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations, 2013. The said provisions mandate that any entity desirous of carrying out the activities of an investment adviser has to first get itself registered with SEBI as an investment adviser. In view of the foregoing, I find that Yogendra Singh by engaging in the activities of an 'investment adviser' as defined under Regulation 2 (m) of SEBI (Investment

Adviser) Regulations, 2013, and holding itself out as an investment adviser, without having a valid certificate of registration through his proprietorship firm Equity 99, has violated Section 12 (1) of the SEBI Act read with Regulation 3(1) of the SEBI (Investment Adviser) Regulations, 2013.

Issue – II- Whether Anshul Rathore is connected to Yogendra Singh; and if so, what is the nature of his connection?

5.18. It has been alleged in the SCN that Anshul Rathore has violated Section 12 (1) of the SEBI Act and Regulation 3 (1) of the IA Regulations by carrying out, along with Yogendra Singh, unregistered investment advisory activities.

5.19. I note from the Establishment Certificate granted to Equity 99 (proprietorship firm) that the same was with effect from May 11, 2018. I note that Anshul Rathore has not specified the date on which his employment with Yogendra Singh came to an end. It is relevant to note that Anshul Rathore in his submissions provided a copy of a complaint filed by him against Yogendra Singh and others with the District and Sessions Court, Indore on June 28, 2021. Noticee No. 2 in the said complaint has brought out certain facts which have been captured in the preceding paragraphs, and, as such, do not require reiteration here. It is, however, germane to state that the facts brought out in the complaint are yet to gain any judicial determination. Also, no documentary evidence has been annexed to substantiate the facts brought out in the said compliant. Additionally, the said complaint was filed after the issuance of the SCN on June 04, 2021. In view of the above, I am unwilling to consider the facts brought out in the complaint filed by Anshul Rathore against Yogendra Singh and others.

5.20. Considering the aforesaid facts, it would be fair to assume that the starting point of Anshul Rathore's engagement with Yogendra Singh was from May 11, 2018 and he could not have continued his relationship beyond June 28, 2021, i.e. the date of filing of the complaint. Accordingly, the period, May 11, 2018 to June 28, 2021 would be the relevant period to examine the extent of Anshul

Rathore's involvement in the unregistered investment advisory activities undertaken by Yogendra Singh.

5.21. With respect to Anshul Rathore, the SCN has made reference to two bank accounts. The details of the bank accounts of Anshul Rathore, as mentioned in the SCN, are provided hereunder:

Table - 2

Sl. no.	**Account Name**	**Bank**	**Account No.**	**Account Opening Date**
1	ANSHUL RATHORE	State Bank of India	34771133543	March 09, 2015
2	ANSHUL RATHORE	Axis Bank	913010020194613	April 16, 2013

5.22. Anshul Rathore in his response to the allegations made in the SCN has stated that he was only an employee of Yogendra Singh handling HR functions, and beyond that he was not involved in the activities of Yogendra Singh. He has submitted that he was not involved in taking money from any client.

5.23. It has been asserted by Anshul Rathore that his bank account maintained with Axis Bank (A/c No. 913010020194613) was a salary account and that the amounts credited to the said account were legitimately received. As regards his bank account maintained with the State Bank of India (A/c No. 34771133543), it has been similarly asserted that the funds credited in the said account were legitimately received.

5.24. Reference in this regard is made to an email dated October 09, 2020 received by SEBI from Rajesh Vanaparthi. By way of the said email, it was informed by him that in respect of the investment advisory services availed by him he had *inter alia* made a payment of INR 1 lakh in the bank account of Anshul Rathore bearing number 34771133543 maintained with State Bank of India (IFSC code – SBIN0000408).

5.25. It is noted from the record that the cell phone number of Rajesh Vanaparthi is 9377XXX817. Upon perusal of the narrations as appearing in the statement of the Noticee's bank account maintained with State Bank of India (A/c No. 34771133543), it is observed that the phone number of Rajesh Vanaparthi appears in the narrations relating to at least 5 credit transactions. Details of the said credit transactions which relate to the phone number of Rajesh Vanaparthi are provided hereunder:

Table - 3

Sl. No.	**Date**	**Amount (INR)**
1	05/06/19	5,000
2	11/06/19	10,000
3	20/06/19	29,500
4	29/06/19	20,500
5	05/08/19	58,000
Total		1,23,000

5.26. Thus, it is clear that funds were transferred by the complainant to Anshul Rathore's account. Anshul Rathore in his submissions has stated that for the months of June and August 2019, Yogendra Singh had not paid his salary and when he sought his salary from Yogendra Singh he was informed that there was some payment due from another person and once such payment was made, the salary would be adjusted. Also, it has been submitted by Anshul Rathore that subsequently in June and August he received payment in his bank account.

5.27. I note from the narrations as appearing in the statement of the Noticee's bank account maintained with State Bank of India (A/c No. 34771133543) transactions similar to the ones in respect of Rajesh Vanaparthi. A few such sample narrations are provided hereunder:

Table - 4

Sl. No.	Date	Narrations	Credit Amount (INR)
1	18-Apr-19	BY TRANSFER-UPI/CR/910807719633/RAJBIRS/UTIB/rajbirsain/UPI--	2,500
2	18-Apr-19	BY TRANSFER-UPI/CR/910810041456/DHARMEND/SBIN/9636375005/NO RE--	10,000
3	25-Apr-19	BY TRANSFER-UPI/CR/911536949864/PARSURA/SBIN/9733230356/NA--	5,000.00
4	09-03-2021	BY TRANSFER-INB IMPS106816813241/9575257180/XX6921/March Pay--	10,200
5	14-03-2021	BY TRANSFER-INB IMPS107316597893/9575257180/XX6921/NA--	20,000.00

5.28. As is seen from the above table, credits have been received from various other individuals who have, much like, Rajesh Vanaparthi provided their phone numbers. These transactions have remained unexplained. It cannot be that Anshul Rathore was paid his salary on all occasions through payments from some other person who owed money to Yogendra Singh. So, the argument of Noticee No.2 that the credits from Rajesh Vanaparthi into his account were related to the payment of his salary appears to be specious. Accordingly, I find that the bank account of Anshul Rathore bearing number 34771133543 maintained with State Bank of India was being used for receiving funds from investors/clients with respect to the unregistered investment advisory activities.

5.29. The SCN also makes reference to the bank account of Anshul Rathore maintained with Axis Bank (A/c No. 913010020194613). With respect to the same, it has been contended by Noticee No. 2 that he was an employee of Yogendra Singh and the said account was a salary account. It has already been stated that the relevant period for consideration of the association of Anshul Rathore with Yogendra Singh shall be May 11, 2018 to June 28, 2021.

5.30. It is noted from the particulars of the transactions appearing in the statement of Anshul Rathore's Axis Bank account (A/c No. 913010020194613) that the word *'Salary'* only appears in respect of credit entries prior to May 11, 2018. Also, it is seen from the statement of the said bank account that the total number of credit transactions effected during the period, May 06, 2013 to June 28, 2021 was 497. Out of those 497 credit entries, 318 were during the period, May 11, 2018 to June 28, 2021, and the balance i.e., 179 were for the period, May 06, 2013 (date of first credit entry) to May 10, 2018. It is evident that a spurt in credit entries happened after May 11, 2018. For a salary account such high number of credit transactions is unusual and suspicious. Also, cash deposits were being received in the said bank account from places far and wide, namely, Vishakhapatnam, Jabalpur, Ujjain, Kalyan, Jalgaon etc. Additionally, an amount of INR 1,20,000 had been received in the said bank account from one Pushpendra Chadar, and an amount of INR 3,00,000 had been received in the said bank account from one Rajendra kumar Balbhadra. These transactions remain unexplained. Noticee No.2 has also contended that he had received loans from NBFCs which was reflected in the total amount credited in his Axis Bank account (A/c No. 913010020194613). The Noticee has not provided any further details regarding the amounts of such loans or their tenures. Also, from the narrations as appearing in the bank statement of the Noticee's Axis Bank account (A/c No. 913010020194613), it does not appear that any loan amount was credited. Though, debit transactions numbering to twenty do appear which relate to a "HDFC Jumbo loan". So, the quantum and spread of credit entries, as seen from the above paragraphs, clearly point to the fact that the account was not a salary account as claimed by Noticee No.2, but used to collect funds with respect to the unregistered investment advisory activities.

5.31. Additionally, Noticee No.2 has contended that paragraph 9 of the SCN had wrongly mentioned that the email ID: info.vishwaam@gmail.com was provided by Anshul Rathore in the KYC documents while opening the Axis Bank account. It has been clarified by the said Noticee that the email ID provided was ansul.27@gmail.com. In this respect, I note from a letter dated July 05, 2021 issued by Axis Bank, wherein it has been stated that the email ID as per their records was ansul.27@gmail.com. Considering the same, it appears that statement in paragraph 9 of the SCN as regards the email ID is not correct. However, this fact does not change the finding as appearing in the preceding paragraph with respect to the bank account maintained with Axis Bank. Accordingly, I find that the bank account of Anshul Rathore bearing number (A/c No. 913010020194613) maintained with Axis Bank was being used for receiving funds from investors/clients with respect to the unregistered investment advisory activities.

5.32. Thus, it is clear that Anshul Rathore was closely associated with the activities of Yogendra Singh, and had provided his bank accounts maintained with State Bank of India (A/c No. 34771133543) and Axis Bank (A/c No. 913010020194613) for mobilisation of funds thereby facilitating Yogendra Singh in carrying out unregistered investment advisory activities.

5.33. Having established that Anshul Rathore was associated with Yogendra Singh and had facilitated in the carrying out of the unregistered investment advisory activities, it remains for determination as to what was the extent of his association.

5.34. In this context it would be relevant to restate the facts already brought out:

a. the proprietorship firm, Equity 99 had been formed by Yogendra Singh and in this regard he had obtained an Establishment Certificate issued by the District Labour Office, Indore;

b. a bank account had been opened by Yogendra Singh in the name of Equity 99 for carrying out his business;

c. the complaint received from Equity 99 (partnership firm), a SEBI registered intermediary, contained the details of the bank account mentioned above; and

d. email communication providing details of the *'Premium Cash and Index Service'* was sent to Rajesh Vanaparthi from the email ID: info.vishwaam@gmail.com, which is the same email ID provided by Yogendra Singh at the time of opening of the bank account in the name of Equity 99.

5.35. Thus from the above, it does appear that Yogendra Singh was the focal point of the activities of Equity 99, the proprietorship firm. In this respect, I also note a unique pattern from the statement from Anshul Rathore's State Bank of India account (A/c No. 34771133543). Most of the debits in the account were actually cash withdrawals through an ATM, and such withdrawals were carried out almost on a daily basis and many times on multiple occasions in a day. An extract of some of the transactions showing the above pattern is provided hereunder:

Table- 5

Date of Transaction	Narration	Debit amount (INR)	Credit amount (INR)
18/05/2018	INB IMPS/P2A/UA64006138 /XXXXXXX543SBIN	-	2000
19/05/2018	ATM CASH 81390 INDOREBRANCH2NDATM INDORE	2000	-

08/06/2018	INB IMPS815919772020/9753838755/XX4613/	-	1000
08/06/2018	ATM CASH 7016 +ROOP TOWER ANNAPURNA INDORE	1000	
12/06/2018	INB IMPS816320948534/9753838755/XX4613/	-	1000
12/06/2018	ATM CASH 6157 ROOPTOWER OPP DESH INDORE	1000	-
26/06/2018	INB IMPS817718133357/9753838755/XX4613/	-	1000
26/06/2018	ATM CASH 81771 INDUSIND BANK LIMITED INDORE	1000	-
28/06/2018	INB IMPS817920624991/9753838755/XX4613/	-	2000
28/06/2018	ATM CASH 1243 ROOPTOWER OPP DESH INDORE	2000	
08/07/2018	INB IMPS818912639977/9753838755/XX4613/	-	10000
08/07/2018	ATM CASH 1827 +ROOP TOWER ANNAPURNA INDORE	10000	-

5.36. It appears from this pattern that there were specific instructions that any amount coming into the account should be withdrawn. This clearly points to the fact that the said account was being used as a conduit for receipt of funds. Had it been for the personal use, there would not have been any need for immediate withdrawal of funds on credit of the same in the bank account. This is substantiated by the fact that by November of 2019, the balance in the account had become NIL. However, in respect of Anshul Rathore's Axis Bank account (A/c No. 913010020194613), no specific pattern can be gathered regarding the debit transactions to convey that the real beneficiary of the funds coming into the account was someone other than the account holder. Further, during the hearing on June 21, 2022, Noticee No.2 was asked to provide a letter of appointment or any other document to establish that he was employed with Equity 99 (proprietorship firm)/Yogendra Singh and handling HR related functions. He was also required to specify the tenure of his employment with Equity 99 (proprietorship firm) /Yogendra Singh. No reply in respect of the specific questions have been provided by the Noticee.

5.37. In view of the facts brought out above, it is evident that Anshul Rathore had greatly facilitated Equity 99 (proprietorship firm)/Yogendra Singh in carrying out unregistered investment advisory activities. I am unwilling to give the benefit of doubt to him, and, as such, conclude that not only did he facilitate the receipt of funds in his accounts from clients/investors but also was a beneficiary of those funds.

5.38. Thus, I find that he has violated the provisions of Section 12(1) of the SEBI Act and Regulation 3(1) of the SEBI (IA) Regulations, 2013.

Issue –III - What was the total amount mobilised by way of unregistered investment advisory services?

5.39. It has already been brought out that an account in the name of Equity 99 had been opened by Yogendra Singh as its proprietor. It has also been brought out that even after repeated attempts, Yogendra Singh has not responded to the SCN or the Hearing Notices issued to him. Lastly, it has already been established that Equity 99 had been formed by Yogendra Singh to carry out investment advisory services. In view thereof, it is considered that all credits in the bank account of Equity 99 (A/c no. 201002430783 with IndusInd Bank, Indore Branch) totaling to INR 5,72,181.26 are proceeds of unregistered investment advisory services.

5.40. With respect to the bank accounts of Anshul Rathore, it has already been established in the preceding paragraphs that his two bank accounts maintained respectively with State Bank of India (A/c No. 34771133543) and Axis Bank (A/c No. 913010020194613) had been used to carry out unregistered investment advisory services with Yogendra Singh. Accordingly, it is considered that the credits in the bank accounts of Anshul Rathore during the period May 11, 2018 to June 28, 2021 are proceeds of unregistered investment advisory services.

5.41. Thus, in view of the above, the amount mobilised by Yogendra Singh /Anshul Rathore, through multiple bank accounts, is tabulated hereunder:

Table – 6

Sr. No	***Name of Bank Account Holder***	***Bank Account Number***	***Name of the Bank***	***Date of last Credit***	***Amount Mobilised (INR)***
1.	Equity 99	201002430783	IndusInd Bank	29/08/2019	5,72,181.26 **¥**
2.	Anshul Rathore	913010020194613	Axis Bank	07/06/2021	30,84132.16 #
3.	Anshul Rathore	34771133543	State Bank of India	07/06/2021	6,52,426.1 ***α***
Total					**43,08,739.52**

¥ Period of consideration – May 11, 2018 to December 31, 2022
 # Period of consideration – May 11, 2018 to June 28, 2021
α Period of consideration – May 11, 2018 to June 28, 2021

6. Directions –

6.1. I, in exercise of powers conferred upon me under sections 11(1), 11 (4) and 11B (1) of the SEBI Act and in the interest of investors do hereby pass the following directions: –

i. The Noticees shall within a period of three (3) months from the date of coming into force of this Order, jointly and severally, refund the money received from investors/clients, as fees or consideration or in any other form, in respect of unregistered investment advisory activities.

ii. The Noticees shall cause to effect a public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, inviting claims from investors/clients within a period of fifteen (15) days from the date of this Order. The said public notice shall detail the modalities for refund, and include the details of the contact person viz., name, address and contact number. A period of two (2) months from the date of the publication of the public notice shall be provided to the investors/clients for submitting their claims.

iii. The repayments to the investors/clients shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channel, which ensures audit trails to identify the beneficiaries of repayments.

iv. Within a period of 15 days from the completion of refund as directed in paragraph 6.1 (i) above, the Noticees shall file a report of such completion with SEBI addressed to the "*Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051*". The above-mentioned report should be duly certified by an independent Chartered Accountant and should indicate the amount of refund, mode of payment by bank transactions, names of the investors, their addresses, contact details etc.

v. The remaining balance amount shall be deposited with SEBI which shall be kept in an escrow account for a period of one year for distribution to clients/investors who were availing the investment advisory services from the Noticees. Thereafter, the remaining amount, if any, shall be deposited in the Investors Protection and Education Fund, maintained by SEBI.

vi. The Noticees are restrained from selling their assets, properties and holdings of mutual funds/shares/securities held by them in demat/physical form except for the sole purpose of making the refunds as directed above. Further, banks are directed to allow debit from the bank accounts of Yogendra Singh/Anhsul Rathore, only for the purpose of making refunds to the clients/ investors who were availing the unregistered investment advisory services from them and for depositing the balance amount with SEBI, as directed in this Order.

vii. The Noticees are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in securities, directly or indirectly in any manner whatsoever, for a period of three (3) years from the date of this Order or till the expiry of three (3) years from the date of completion of refunds to clients/ investors as directed in paragraphs 6.1 (i) and 6.1.(v) above, whichever is later.

viii. Upon submission of report on completion of refund to clients/investors to SEBI and deposit of the balance amount, if any, with SEBI as directed at 6.1. (v), the direction at paragraph 6.1 (vi) above shall cease to operate within 15 days thereafter.

ix. The Noticees shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in paragraph 6.1. (vii), either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a Certificate of Registration from SEBI, as required under the securities laws.

6.2. This Order is without prejudice to any other action that SEBI may initiate.

6.3. The direction for refund, as given in paragraph 6.1(i) above, shall not act as a bar on the clients /investors to pursue any other legal remedy available to them under any other law, against the Noticees for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

6.4. The above directions shall come into force with immediate effect.

6.5. A copy of this Order shall be forwarded to:

i. the entities, all the recognised Stock Exchanges, registered Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions; and

ii. the Government of Madhya Pradesh for information.

Place: Mumbai **ASHWANI BHATIA**

Date: January 02, 2023 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA